PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number
		Q76275

	Application Number	Filed
MAIL STOP AF	10/615,850	July 10, 2003
Commissioner for Patents	First Named Inventor	
P.O. Box 1450	Anne GABRIEL	
Alexandria, VA 22313-1450	Art Unit	Examiner
	2612	Eric J. ELCENKO

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Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed concurrently with a Notice of Appeal.

The review is requested for the reasons(s) stated on the attached sheet(s).
     Note: No more than five (5) pages may be provided.

☑ I am an attorney or agent of record.
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July 26, 2007
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Anne GABRIEL, et al.

Appln. No.: 10/615,850

Confirmation No.: 9991

Filed: July 10, 2003

Docket No: Q76275

Group Art Unit: 2617

Examiner: Eric J. ELCENKO

For: A METHOD OF IMPLEMENTING AN ADMISSION CONTROL ALGORITHM IN A TELECOMMUNICATIONS SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated June 16, 2006, Applicant submits this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal and appropriate fee.

Applicant turns now to the rejections at issue:

§102(e) Rejection

Claims 1, 3 5-9, 13 -15 and 17 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Aboul-Magd, et al. (U.S. Patent No 6,490,249; hereinafter "Aboul-Magd").

Applicant respectfully traverses the rejection.

Claim 1 relates to a method of implementing an admission control algorithm in a telecommunications system. Claim 1(as amended) recites:

> dynamically adapting at least one parameter of said algorithm as a function of a traffic model representative of traffic present, <u>wherein said traffic model includes one or more parameters representative of at least one type of traffic present.</u>

Aboul-Magd, which the Examiner cites in the Final Office Action as allegedly disclosing the features of claim 1, relates to a hybrid CAC (connection admission control) function that combines mathematical and measurements aspects of traffic to control admission to a network. *See* Aboul-Magd, col. 5, lines 34-39. When accounting for the measurement-based portion of the hybrid CAC, Aboul-Magd discloses a parameter Ubf that limits utilization of the system to a percentage of the link capacity. The parameter Ubf is changeable depending on the time of the day to reflect the "expected traffic pattern". *See* Aboul-Magd, col. 6, lines 32-40.

In the Final Office Action, the Examiner further cites column 1, line 23-26 of Aboul-Magd, and asserts that the claimed "said traffic model includes one or more parameters representative of at least one type of traffic present" reads on the traffic characteristics (peak rate, max load, sustain rate, and burst size) disclosed in the reference. However, the Examiner already asserted that the "expected traffic pattern" corresponds to the claimed "traffic model". Aboul-Magd does not teach or suggest that the "expected traffic patterns" are based on the traffic characteristics such as peak rate, max load, sustained rate and burst size. Indeed, taking into account what Aboul-Magd discloses as a whole, the "traffic characteristics" are taught in regard to the mathematical-based portion of the hybrid CAC, but not the measurement based portion. *See* Aboul-Magd, col. 1, lines 22-34 ("The values assigned to this set of traffic characteristics are often based on the user's best guess…[c]onsequently *these values may bear little resemblance to the actual user activity and traffic pattern*" (emphasis added)).

In the Advisory Action of July 25, 2007 (hereinafter "Advisory Action"), the Examiner cites col. 2, lines 9-54 of Aboul-Magd, and asserts "the measured parameters are used in conjunction with mathematical CAC. The assumptions are made based upon actual traffic parameters which can be asserted as the traffic models including one or more traffic parameters representative of at least one type of traffic present." The Examiner's remarks are not entirely understood, but assuming the Examiner is trying to assert that the mathematical CAC which is based on QoS parameters, corresponds to "a traffic model includes one or more parameters representative of at least one type of traffic present", as recited in claim 1, Applicant respectfully disagrees.

First, and as explained, *supra*, claim 1 requires "dynamically adapting at least one parameter of said algorithm as a function of a traffic model representative of traffic present". The Examiner has asserted that the "dynamically adapted at least one parameter" is Ubf. *See* Final Office Action, at pg. 9. The parameter, Ubf, is used to determine an "expected traffic pattern" in the measurement based CAC. However, the QoS parameters are used in the mathematical based CAC. Therefore, the Examiner is inconsistently asserting which feature of Aboul-Magd allegedly corresponds to the claimed "traffic model".

Second, Applicant respectfully submits that the QoS parameters are not "one or more parameters representative of at least one type of traffic present", as recited in claim 1. The QoS parameters are provided in the connection establishment message, they are not in any way, "representative of at least one type of traffic present". *See* Aboul-Magd, col. 3, lines 11-15.

§103(a) Rejection

Claims 28-31, 33 and 34-36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Aboul-Magd in view of Vilander, *et al.* (U.S. Patent Publication No. 2004/0010609; hereinafter "Vilander"). Claim 16 is rejected is rejected under 35 U.S.C. §103(a) as being unpatentable

over Aboul-Magd in view of Bjoerkman, *et al.* (U.S. Patent Publication No. 2005/0152272; hereinafter "Bjoerkman"). Claims 11 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Aboul-Magd in view of Kola, *et al.* (U.S. Patent Publication No. 2004/0213165; hereinafter "Kola"). Applicant respectfully traverses the rejections.

Applicant respectfully submits that Vilander, Bjoerkman and Kola do not compensate for the deficiencies of Aboul-Magd with regard to independent claim 1. Therefore, claims 11, 12, 16, 28-31, 33, and 34-36 are *at least* patentable by virtue of their dependency from independent claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 11, 12, 16, 28-31, 33 and 34-36.

Conclusion

Applicant respectfully submits that independent claim 1 is not anticipated under 35 U.S.C. § 102(e) by Aboul-Magd, because the reference does not teach or suggest all of the features and limitations of the claim. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 1, and dependent claims 3-10, 13-15 and 17-27 *at least* by virtue of their dependencies.

Respectfully submitted,

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